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HOUSE CS FOR CS FOR SENATE JOINT RESOLUTION NO. 22(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered:

Referred:

Sponsor(s): SENATORS HUGGINS, Ellis, Wielechowski, Thomas, Therriault, Paskvan, McGuire, Meyer, Davis, Bunde

REPRESENTATIVES Neuman, Stoltze, Gara

A RESOLUTION

1 **Opposing litigation that seeks to eliminate the Kenai, Kasilof, and Chitina sockeye**
2 **salmon personal use dip net fisheries.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** the United Cook Inlet Drift Association is a group of nonresident and
5 resident commercial gill net fishermen in Cook Inlet; and

6 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
7 United States Secretary of Commerce requesting that the United States Department of
8 Commerce preempt state management of its salmon stocks in Cook Inlet; and

9 **WHEREAS** the United Cook Inlet Drift Association has filed a lawsuit against the
10 United States Secretary of Commerce claiming, among other things, that association's
11 nonresident members are discriminated against because they cannot participate in the
12 resident-only dip net fishery, thus requesting the court to declare that the state-authorized
13 resident-only salmon fisheries are unconstitutional and therefore preempted by federal law;
14 and

15 **WHEREAS** Herbert T. Jensen has filed a lawsuit in the United States District Court
16 for the District of Alaska based on claims similar to those stated by the United Cook Inlet

1 Drift Association; and

2 **WHEREAS** all five species of Pacific salmon are an integral part of Alaska's history,
3 heritage, and cultural identity, helping to meet both its economic and nutritional needs; and

4 **WHEREAS** the Magnuson-Stevens Fishery Conservation and Management Act
5 explicitly excludes state waters from the jurisdiction of the Act; and

6 **WHEREAS** the exclusive economic zone is closed to commercial fishing under the
7 Magnuson-Stevens Fishery Conservation and Management Act unless specifically authorized
8 by the state; and

9 **WHEREAS** the Alaska Board of Fisheries has devoted an inordinate amount of time
10 to the extremely complex salmon management program in the Cook Inlet region in an attempt
11 to balance the interests of all stakeholders; and

12 **WHEREAS** the potential results of those lawsuits, if the plaintiffs are successful,
13 would not only preempt state fisheries management but could result in a larger number of
14 nonresident dip net fishermen being allowed to fish, causing an even smaller allocation to the
15 commercial fisheries, thus conceivably further adversely affecting the members of the United
16 Cook Inlet Drift Association; and

17 **WHEREAS** the establishment of federal and state recognized commercial fisheries
18 limited entry programs have drastically limited the ability of residents to use efficient
19 commercial gear for taking subsistence and personal use salmon resources, which has resulted
20 in the establishment of less efficient methods, such as the dip net fisheries, for taking salmon
21 to meet Alaska's nutritional needs; and

22 **WHEREAS** members of the United Cook Inlet Drift Association are able to use their
23 exclusive limited entry permits to use efficient gear that is not available to the average
24 Alaskan for the purpose of taking salmon for personal use; and

25 **WHEREAS** members of the United Cook Inlet Drift Association, including all
26 nonresidents, are allowed an unlimited bag limit, an unlimited possession limit, and an
27 unlimited annual limit under state law for salmon retained for personal use if taken during the
28 commercial fisheries, which is a luxury not afforded to Alaskans who do not possess a state
29 limited entry permit; and

30 **WHEREAS** both the federal government and the state recognize in law and place a
31 high priority on the importance of taking of wild resources for food; and

1 **WHEREAS** the State of Alaska restricts dip net salmon fisheries to Alaska residents;
2 and

3 **WHEREAS**, in 1984, a resident-only dip net fishery for Copper River red salmon
4 stocks was established in Chitina; and

5 **WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game
6 issued over 8,000 permits allowing Alaskans to dip net for salmon in Chitina; and

7 **WHEREAS**, in 1981, a dip net fishery for red salmon stocks was established at the
8 mouth of the Kenai and Kasilof Rivers; and

9 **WHEREAS**, in 2006, 2007, and 2008, the Alaska Department of Fish and Game
10 issued between 18,500 and 23,700 permits allowing Alaskans to dip net for salmon in the
11 Kenai and Kasilof Rivers; and

12 **WHEREAS** the Alaska Department of Fish and Game calculates that those dip net
13 fisheries provide an average of 14 fish for each household for those households that
14 participated in the Kenai and Kasilof Rivers dip net fisheries in 2006, 2007, 2008; and

15 **WHEREAS** there appears to be a growing groundswell of support within the
16 commercial fishing industries represented at the North Pacific Fisheries Management Council
17 and state Board of Fisheries levels for a more dominant role in the regulatory process; and

18 **WHEREAS** the Constitution of the State of Alaska dictates that "The legislature shall
19 provide for the utilization, development, and conservation of all natural resources belonging
20 to the State, including land and waters, for the maximum benefit of its people," which clearly
21 means that the state's common property resources must benefit all Alaskans and not just a few
22 commercial fisherman;

23 **BE IT RESOLVED** that the Alaska State Legislature hereby requests that the United
24 Cook Inlet Drift Association and Herbert T. Jensen each drop their lawsuits advocating
25 federal preemption of Alaska's salmon management in state waters in Cook Inlet and
26 opposing the personal use of salmon by Alaska residents.

27 **FURTHER RESOLVED** that the Alaska State Legislature also requests Governor
28 Sean Parnell to direct the attorney general to oppose those lawsuits.

29 **COPIES** of this resolution shall be sent to the Honorable Gary F. Locke, United
30 States Secretary of Commerce; the Honorable Sean Parnell, Governor of Alaska; the
31 Honorable Daniel S. Sullivan, Alaska Attorney General designee; and the Honorable Denby

1 Lloyd, Commissioner, Department of Fish and Game.